

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
San Francisco Division

RICHARD A. KUMI,  
Plaintiff,  
  
v.  
  
CITY OF ALAMEDA,  
Defendant.

Case No. 17-cv-05245-LB

**ORDER TO SHOW CAUSE**

Re: ECF No. 58

Defendant City of Alameda noticed the deposition of plaintiff Richard A. Kumi for May 2, 2018 at the City’s counsel’s office.<sup>1</sup> Mr. Kumi stated that he would refuse to appear for a deposition at the City’s counsel’s office.<sup>2</sup> The court held a discovery hearing on April 26, 2018, and ordered Mr. Kumi to appear for his deposition on May 2, 2018, at the City’s counsel’s office.<sup>3</sup> Mr. Kumi filed an “Appeal on Deposition Decision,”<sup>4</sup> which the court construed as a motion to reconsider its order. The court denied Mr. Kumi’s motion, ordered him again that he must appear for his deposition, and warned him that failure to comply might subject him to sanctions, including

---

<sup>1</sup> See Joint Letter Br. – ECF No. 43. Citations refer to material in the Electronic Case File (“ECF”); pinpoint citations are to the ECF-generated page numbers at the top of documents.

<sup>2</sup> See *id.*

<sup>3</sup> Order – ECF No. 47.

<sup>4</sup> Pl. Appeal on Deposition Decision – ECF No. 49.

1 terminating sanctions.<sup>5</sup> On the evening of May 1 — the night before his deposition — Mr. Kumi  
2 informed the City that he would not appear for his deposition, and he in fact did not appear on  
3 May 2.<sup>6</sup>

4 The City asks that the court sanction Mr. Kumi under Federal Rule of Civil Procedure 37(b)(2)  
5 for his willful refusal to comply with the court's orders that he appear for his deposition.<sup>7</sup>  
6 Specifically, the City asks the court to dismiss Mr. Kumi's lawsuit with prejudice or, in the  
7 alternative, to monetarily sanction Mr. Kumi for the costs and attorney's fees the City incurred as  
8 a result of Mr. Kumi's failure to appear for his deposition (which the City states is \$2,350.00) and  
9 order Mr. Kumi again to appear for a deposition.<sup>8</sup>

10 Under the circumstances, the court sets a show-cause hearing for May 10, 2018 at 9:30 a.m.  
11 Mr. Kumi must appear and show cause why his case should not be dismissed and why he should  
12 not be monetarily sanctioned for failure to comply with the court's orders that he appear for his  
13 deposition. Mr. Kumi may appear by telephone. The court warns Mr. Kumi that failure to comply  
14 with the court's order to appear and show cause might subject him to sanctions, including  
15 terminating sanctions (i.e., the dismissal of his case with prejudice).

16  
17 **IT IS SO ORDERED.**

18 Dated: May 8, 2018



19  
20 LAUREL BEELER  
United States Magistrate Judge

21  
22  
23  
24  
25 <sup>5</sup> Order – ECF No. 51.

26 <sup>6</sup> See Def. Letter – ECF No. 58.

27 <sup>7</sup> *Id.*

28 <sup>8</sup> *Id.*